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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,767	12/06/2001	Fumio Nagasaka	111371	8101
25944 7590 03/05/2007 OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320			EXAMINER PLUCINSKI, JAMISUE A	
			ART UNIT	PAPER NUMBER
			3629	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/05/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/980,767	NAGASAKA, FUMIO	
	Examiner	Art Unit	
	Jamisue A. Plucinski	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-9,11,12 and 14-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-9,11,12 and 1419 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20061130</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In response to amendment filed 11/30/06.

Information Disclosure Statement

2. References DE 198 05 465 A1 and DE 198 30 777 A1 have been considered in so far as they have been cited in a Preliminary Search report which has been submitted in English. These references are not deemed to be relevant to the claims, due to the fact that the examiner cannot ascertain what the reference is talking about due to the reference being in a foreign language.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-9, 11-12, and 14-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Prabhakaran (5,922,040).

5. With respect to Claims 1-3, 7-9, 11-12, 15, 18 and 19: Prabhakaran discloses the use of a fleet management system (physical distribution system) and a method of physical distribution which comprises:

- a. A physical distribution server (616 & 1501) comprising:
 - i. A database which stores information (614);
 - ii. An information management module that registers and manages information (612 with corresponding detailed description) the information

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management module retrieves information to find the current position of the carrier, of which the carrier accepted the cargo (Column 37 lines 37-52 and Column 38, lines 55-67);

iii. Information processing module which processes information and supplies information to a terminal (618 with corresponding detailed description);

b. Carrier information terminal (611) comprising:

iv. A tracking module (702);

v. Traced position notification module that notifies the physical distribution server of the position (column 9, lines 14-51);

vi. Information notification module which notifies cargo information to the physical distribution server (Table 7, Column 37 lines 37-52 and Column 38, lines 55-67);

c. Shipper information terminal (626) which comprises an information notification module and a display unit (column 5, lines 45-55, Column 6, lines 25-44, Column 33, line 45 to Column 34 line 63 and Column 35, lines 27-33).

6. With respect to Claims 4 and 16: Prabhakaran discloses the carrier information terminal is mounted on the carrier vehicle (column 5, lines 13-25).

7. With respect to Claims 5 and 17: See Figure 1 with corresponding detailed description.

8. With respect to Claim 6: See Column 10, lines 24-37, Column 12 lines 6-24 and Column 13, lines 13-32.

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9. With respect to Claim 14: Prabhakaran discloses the use of multiple computers which communicate with each other (See abstract and Figures 2, 4 and 5), therefore the examiner considers it to be a form of a network.

Response to Arguments

10. With respect to Applicant's argument on the foreign references present on the IDS. The examiner has considered the references, see explanation above.

11. Applicant's arguments filed 11/30/06 have been fully considered but they are not persuasive.

12. The applicant has outlined multiple claim limitations which Prabhakaran does not meet, specifically in Claims 1, 2, 8, 9, 11, 12, 15, and 18. However the applicant has not stated why or give reasons as to how Prabhakaran does not meet these claim limitation, but merely stated that it doesn't. However, the applicant has given general arguments and stated that Prabhakaran discloses a system for fleet management that "receives the vehicle position data and transmits to a fleet of vehicles and creates a system that creates schedules for its own fleet mobile units based on an order without any input by the shipper". The applicant then argues that the claimed system allows a carrier to search for cargo that is inputted by a shipper that can be delivered by the carrier's transportation mediums that meet a predetermined condition, and states furthermore that the claimed system allows the shipper to search for the carriers that inputted a desired cargo, which meets the predetermined condition of the cargo of interest. First, it should be noted that the claims have been amended to disclose the predetermined condition, which the claims state that the predetermined condition is the acceptance of the delivery of the cargo, therefore the

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examiner reading this claim limitation to read that when a carrier physically picks up the cargo from the shipper, then the predetermined condition is met. The applicant has argued that the claimed system allows a carrier to search for cargo, however nowhere in the claims does this limitation exist, where a carrier searches for cargo that is inputted by the shipper. The claims are drawn to a physical distribution system and method which transports cargo, not simply a system which acts as a broker to the carriers and shippers. As is claimed right now, one carrier which does the transporting, accepts (pick ups) the cargo satisfying the predetermined condition, reads on the claim limitations. Therefore the examiner considers Prabhakaran to disclose the claimed limitations, and the rejections stand as stated above.

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

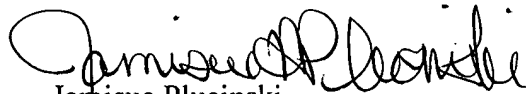
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Plucinski whose telephone number is (571) 272-6811. The examiner can normally be reached on M-Th (5:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Jamisue Plucinski
Patent Examiner
Art Unit 3629